**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR**

**THURSDAY, THE 28TH SEPTEMBER 2006 / 6TH ASWINA 1928**

**OP.No. 24589 of 1998(B)**
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**PETITIONER:**
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**JOSEPH SAJEEV,**
**KUDIYAMSSERY,**
**KADAKKARAPPALLY VILLAGE,**
**OTTAMASSERY THYKKAL. P.O,**
**CHERTHALA, ALAPPUZHA.**

**BY ADV. SRI.SIBY MATHEW**
**SRI.WILSON URMESE**

**RESPONDENTS:**
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1. **VILLAGE OFFICER,**
   **KADAKKARAPPALLY VILLAGE,**
   **CHERTHALA TALUK, ALAPPUZHA.**

2. **TAHSILDAR, CHERTHALA TALUK,**
   **ALAPPUZHA.**

3. **DISTRICT COLLECTOR,**
   **ALAPPUZHA.**

**BY GOVERNMENT PLEADER SRI.P.A.SALIM**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**OP 24589/1998**

## APPENDIX

**PETITIONER'S EXHIBITS**

**EXHIBIT P1: TRUE TYPED COPY OF the KUTHAKAPATTAM GRANT IN FORM D OF THE KUTHAKAPATTAM RULES ISSUED BY THE 2ND RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE RECEITP DATED 9.06.1987 ISSUED BY THE VILLAGE OFFICER - 1ST RESPONDENT.**

**EXHIBIT P3: TRUE COPY OF THE RECEIPT DATED 10.10.1991 ISSUED BY THE 1ST RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF THE DEMAND NOTICE DATED 08.06.1998 ISSUED BY THE 3RD RESPONDENT.**

**EXHIBIT P5: TRUE COPY OF THE REPRESENTATION DATED 29.10.1998 FILED BY THE PETITIONER.**

**//TRUE COPY//**

**P.A. TO JUDGE**

**OP NO.24589/1998**

**ORDER IN C.M.P.NO.43282 OF 1998 IN O.P.NO.24589 OF 1998**

**DISMISSED**

**28.09.2006** **Sd/-**
**C.N.RAMACHANDRAN NAIR, JUDGE**

**//TRUE COPY//**

**P.A. TO JUDGE**

**C.N.RAMACHANDRAN NAIR, J.**

**O.P. NO. 24589 OF 1998**

**Dated this the 28th day of September, 2006**

**J U D G M E N T**

Petitioner is challenging demand of kuthakappattam arrears in respect of 17 coconut trees in the property that was given to the petitioner's father as kuthakappattam. The rate per coconut tree was increased in 1975 to Rs.20/- and again in 1985 to Rs.50/- per year. Since petitioner did not clear the arrears demand was made to clear the arrears from 1991. The petitioner's father approached the Government and obtained instalments to clear the arrears which was then around Rs.5,000/-. Exhibit P3 shows that first instalment of Rs.503/- was remitted on 10/10/91. Petitioner's father who discontinued payment died on 16/9/1998 and in between there was no recovery and later when recovery was initiated vide Exhibit P4, petitioner filed this O.P.

2. I have heard counsel for the petitioner and the Government Pleader.

3. While the main challenge is that petitioner was not informed about the increase in the rate, the further contention is on the ground that claim is time barred. In the first place, there is

no time bar because Government has 30 years time to recover the arrears. So far as increase without notice is concerned, it is made clear by respondents that increase is not on individual basis, but it is general rate of increase all over the State for coconut trees. The petitioner's father was liable to pay the actual kuthakappattam arrears in respect of the coconut trees. It is seen that, respondents conceded that four coconut trees have perished and from 1991 onwards demand is for 13 coconut trees at the rate of Rs.50/- per tree. There is nothing to indicate as to when this four coconut trees perished. In the circumstances, I feel the petitioner is liable to pay kuthakappattam rates only for 13 coconut trees all through. In view of the ordinate delay on the part of the respondents in proceeding to recover the amount, there will be a direction to respondents to waive complete interest provided petitioner pays the arrears in 10 equal monthly instalments, that too only for 13 coconut trees. The Village Officer is directed to recover the liability for 13 coconut trees for the whole period and the same may be collected in 10 equal monthly instalments starting from 30.11.2006 and the balance amount to be paid on the last day of the succeeding 9 months.

However, if petitioner commits default in payment of any of the instalments, amount can be recovered immediately on default. So far as future orders are concerned, there will be a direction to the concerned Village Officer to verify the number of coconut trees presently available and recover kuthakappattam rates only for the actual number of trees.

O.P is disposed of as above.

**C.N.RAMACHANDRAN NAIR,**
**JUDGE**

Rp